

Amendments to the Drawings:

The attached replacement drawing sheet includes changes to FIGS. 6 and 8. FIGS. 6 and 8 are amended to change reference numeral “4a” to --33-- and to change reference character “4b” to --18--.

REMARKS

Applicant's acknowledge the indication that dependent claim 20 contains allowable subject matter. Claims 16-29 are currently pending, with claims 16 and 29 being the only independent claims. The drawings have been amended. Claims 16, 17, 18, 20 and 23-26 have been amended. Support for this amendment to independent claim 16 may be found, for example, at pg. 7, lines 19-22 of the specification as originally filed. Independent claim 29 has been added. The amendments to claims 17, 18, 20 and 23-26 clarify the wording of the claims, and are cosmetic in nature. No new matter has been added. Reconsideration of the above-identified application, in view of the following amendment and remarks, is respectfully requested.

Priority Claim

The application data sheet recites that the present application is a National Stage Application under 35 U.S.C. §371 of PCT/EP2004/004151, filed April 19, 2004. Applicants request that the Examiner acknowledge applicants' priority claim and that the certified copies of the priority documents have been received in this National Stage Application from the International Bureau on any subsequent Office Action Summary (Form PTOL-326) or other form or notice that may issue.

Information Disclosure Statement

The Examiner has indicated he has not considered JP 11073834, JP 59-65436 and JP 61-33328 and has drawn a line through these references on Form PTO/SB/08A to indicate they were not considered because no English language translations were received.

However, MPEP § 609.03 states:

The examiner will consider the documents cited in the international search report in a PCT national stage application *when the Form PCT/DO/EO/903 indicates that both the international search report and the copies of the documents are*

present in the national stage file. In such a case, the examiner should consider the documents from the international search report and indicate by a statement in the first Office action that the information has been considered . (Emphasis Added)

In the instant application, the Form PCT/DO/EO/905 that was returned on August 4, 2006 indicates that both the international search report and the copies of the documents are present in the national stage file. As a result, it is respectfully requested that the Examiner consider all of the documents from the international search report, i.e., the JP 11073834, JP 59-65436 and JP 61-33328 references.

In any event, in the interest of advancing prosecution on the merits, an Information Disclosure Statement (IDS) is being filed concurrently with the instant amendment which includes an Abstract for the JP 11073834, JP 59-65436 and JP 61-33328 references. An acknowledgement of the receipt, entry and consideration of this IDS is respectfully requested. Because the JP 11073834, JP 59-65436 and JP 61-33328 references should have been considered in accordance with MPEP §609.03, it is believed that no fee is required for the IDS. If the Examiner disagrees, however, it is respectfully requested that the fee be charged to our PTO deposit account.

Drawing Objection

The Examiner has objected to Figs. 6 and 8 of the drawings for failure to include the reference numeral 4a in the specification. In response to this objection, applicants have amended Figs. 6 and 8 to change reference character “4a” to --33-- and to change reference character “4b” to --18--.

Allowable Subject Matter

New independent claim 29 includes the subject matter of independent claim 16 and dependent claim 20 which, as noted previously, was indicated to include allowable subject matter. New independent claim 29 is therefore allowable.

Rejection of Claims under 35 U.S.C. §102(b) and 35 U.S.C. §103(a)

Claims 16-18, 21 and 24-28 stand rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 4,365,569 ("*Hollweck*"). Claims 19, 22 and 23 stand rejected under 35 U.S.C. §103(a) as unpatentable over *Hollweck* in view of U.S. Patent No. 4,779,305 ("*Gorsek*"). For the following reasons, reconsideration and withdrawal of this rejection are respectfully requested.

The claimed invention is directed to a splashproof operating device for use with a tachograph. A faulty seal often results in the entire apparatus breaking down because the fault remains undiscovered. The claimed invention is directed to an operating device that provides good functional safety and effects a seal with surroundings components. The operating device and surrounding components include mutually facing contact areas that are elastically braced against each other to obtain the seal.

Independent claim 16 has been amended to recite, *inter alia*, "a recess in the front element, said recess having a first cylindrical guide extending from the rear side of the front element to form a first contact face on said front element, the operating element being movable within said recess and said recess being surrounded by the first contact face on the front element". Support for this amendment may be found, for example, at pg. 7, lines 19-22 of the specification as originally filed. *Hollweck* fails to teach or suggest this limitation.

Hollweck discloses a “thermostat resetting device which ensures that the thermostat resumes its normal operation immediately after the resetting pin is actuated, regardless of the position of the push button”. *Hollweck* (col. 2, lines 13; Fig. 1) explains that the “thermostat resetting device shown comprises a housing 1 in which there is held a tubular retaining member 2”. *Hollweck* (col. 2, lines 13-15) teaches that recesses 19 are provided in the housing 1 into which a socket 5 may be snapped. *Hollweck* (col. 2, lines 44-46) additionally explains that “the end portion of the housing 1, remote from the push button 10, has recesses 17 which receive one part of a thermostat 18 shown only in phantom lines”. According to *Hollweck*, moreover, “[t]he recesses 17 permit a mechanical connection with the housing 1 without any additional securing means” (see col. 2, lines 46-48).

However, there is no teaching or suggestion in *Hollweck* of “a first cylindrical guide extending from the rear side of the front element to form a first contact face on said front element” such that the operating element can move within the recess and that the recess is “surrounded by the first contact face on the front element”. The claimed cylindrical guide 15 is shown FIG. 2 of the instant specification. *Hollweck* fails to provide a housing that corresponds to structure as recited in now amended independent claim 16.

Gorsek relates to “a positive-positioning knob assembly which may be used on any device having a rotatable shaft which requires positive incremental positioning or ‘detenting’.” (see col. 1, lines 6-9). However, there is nothing whatsoever in *Gorsek* with respect to the recess in the front element of now-amended independent claim 16. Therefore, the deficiency of *Hollweck* remains, because *Gorsek* fails to provide what *Hollweck* lacks.

In view of the foregoing, amended independent claim 16 is patentable over the combination of *Hollweck* and *Gorsek*. Reconsideration and withdrawal of all the rejections

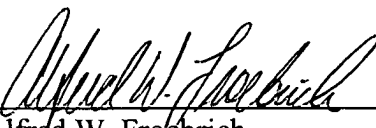
under 35 U.S.C. §102(b) and §103(a) are therefore in order, and a notice to that effect is requested.

In view of the patentability of independent claim 16, dependent claims 17-28 are also patentable over the prior art for the reasons set forth above, as well as for the additional recitations contained therein.

Based on the foregoing amendments and remarks, this application is in condition for allowance. Early passage of this case to issue is respectfully requested.

Should the Examiner have any comments, questions, suggestions, or objections, the Examiner is respectfully requested to telephone the undersigned in order to facilitate reaching a resolution of any outstanding issues.

Respectfully submitted,
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